

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:

John H. DOWLING et al

Serial No: 09/151,764

Filed : September 11, 1998

For : OPTICAL SYMOLOGIES IMAGER

PETITION TO CORRECT INVENTORSHIP  
UNDER 37 CFR S 1.48(a)

Commissioner of Patents and Trademarks  
Washington, DC 20231

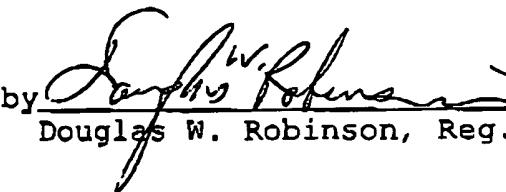
Sir:

Applicants hereby petition to correct the inventorship in the above-referenced patent application. The foregoing application was filed naming two inventors, Howard Stern and John Dowling. While these two inventors are indeed inventors of the application, upon a detailed analysis of all of the claims of the application, it was determined that additional inventors had been omitted. In particular, Luis Alberto Figarella was omitted as an inventor, and the review of the claims indicated that he should be named as an inventor with regard to claims 8 and 31. Harry R. McKinley and Philip E. McKinley were omitted as inventors, and should be named as inventors with regard to claims 1, 9, 25, 28, 32 and 37. Finally, Jason J. Lee was omitted as an inventor, and should have been listed as an inventor with regard to claims 27 and 30.

Submitted herewith is a Declaration and Power of Attorney executed by all of the foregoing inventors, except for Harry McKinley, who was unavailable to execute the Declaration. A Petition setting forth the pertinent facts with regard to the unavailability of Harry McKinley is also enclosed.

Based on the foregoing, correction of the inventorship of the above-referenced application is respectfully requested. Please charge Deposit Account No. 08-2455 any fees necessary to maintain the pendency of the present application. If any issues remain which can best be solved by a personal or telephone interview, kindly contact the undersigned attorney at the local telephone number listed below.

Respectfully submitted,

by   
Douglas W. Robinson, Reg. 32,751

April 1, 1999

HOFFMAN, WASSON & GITLER, PC  
2361 Jefferson Davis Highway  
Suite 522  
Arlington, VA 22202  
(703) 415-0100

Mar-27-99 02:06P M I BLACK INT PROPLAW 2017-15-0883

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Practitioner's Docket No. A-6388**PATENT****COMBINED DECLARATION AND POWER OF ATTORNEY**(ORIGINAL, DESIGN, NATIONAL STAGE OF PCT, SUPPLEMENTAL, DIVISIONAL,  
CONTINUATION, OR C-I-P)

As a below named inventor, I hereby declare that:

**TYPE OF DECLARATION**

This declaration is of the following type:

(check one applicable item below)

original.  
 design.  
 supplemental.

NOTE: If the declaration is for an International Application being filed as a divisional, continuation or continuation-in-part application, do not check next item; check appropriate one of last three items.

national stage of PCT.

NOTE: If one of the following 3 items apply, then complete and also attach ADDED PAGES FOR DIVISIONAL, CONTINUATION OR C-I-P.

NOTE: See 37 C.F.R. § 1.83(d) (continued prosecution application) for use of a prior nonprovisional application declaration in the continuation or divisional application being filed on behalf of the same or fewer of the inventors named in the prior application.

divisional.  
 continuation.

NOTE: Where an application discloses and claims subject matter not disclosed in the prior application, or a continuation or divisional application names an inventor not named in the prior application, a continuation-in-part application must be filed under 37 C.F.R. § 1.53(b) (application filing requirements — nonprovisional application).

continuation-in-part (C-I-P).

**INVENTORSHIP IDENTIFICATION**

WARNING: If the inventors are each not the inventors of all the claims, an explanation of the facts, including the ownership of all the claims at the time the last claimed invention was made, should be submitted.

My residence, post office address and citizenship are as stated below, next to my name. I believe that I am the original, first and sole Inventor (if only one name is listed below) or an original, first and joint Inventor (if plural names are listed below) of the subject matter that is claimed, and for which a patent is sought on the invention entitled:

**TITLE OF INVENTION  
OPTICAL SYMBOLOLOGIES IMAGER**

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**SPECIFICATION IDENTIFICATION**

the specification of which:

(complete (a), (b), or (c))

(a)  Is attached hereto.

**NOTE:** "The following combinations of information supplied in an oath or declaration filed on the application filing date with a specification are acceptable as minimums for identifying a specification and compliance with any one of the items below will be accepted as complying with the identification requirement of 37 CFR 1.63:

"(1) name of inventor(s), and reference to an attached specification which is both attached to the oath or declaration at the time of execution and submitted with the oath or declaration on filing;

"(2) name of inventor(s), and attorney docket number which was on the specification as filed; or

"(3) name of inventor(s), and title which was on the specification as filed."

Notice of July 13, 1995 (1177 O.G. 60).

(b)  was filed on September 11, 1998 as Serial No. 09/151,764 or  \_\_\_\_\_ and was amended on \_\_\_\_\_ (if applicable).

**NOTE:** Amendments filed after the original papers are deposited with the PTO but contain new matter are not accorded a filing date by being referred to in the declaration. Accordingly, the amendments involved are those filed with the application papers or, in the case of a supplemental declaration, are those amendments claiming matter not encompassed in the original statement of invention or claims. See 37 CFR 1.67.

**NOTE:** "The following combinations of information supplied in an oath or declaration filed after the filing date are acceptable as minimums for identifying a specification and compliance with any one of the items below will be accepted as complying with the identification requirement of 37 CFR 1.63:

"(1) name of inventor(s), and application number (consisting of the series code and the serial number; e.g., 08/123,456);

"(2) name of inventor(s), serial number and filing date;

"(3) name of inventor(s) and attorney docket number which was on the specification as filed;

"(4) name of inventor(s), title which was on the specification as filed and filing date;

"(5) name of inventor(s), title which was on the specification as filed and reference to an attached specification which is both attached to the oath or declaration at the time of execution and submitted with the oath or declaration; or

"(6) name of inventor(s), title which was on the specification as filed and accompanied by a cover letter accurately identifying the application for which it was intended by either the application number (consisting of the series code and the serial number; e.g., 08/123,456), or serial number and filing date. Absent any statement(s) to the contrary, it will be presumed that the application filed in the PTO is the application which the inventor(s) executed by signing the oath or declaration."

Notice of July 13, 1995 (1177 O.G. 60), M.P.E.P. § 601.01(a), 6th ed., rev. 3.

(c)  was described and claimed in PCT International Application No. \_\_\_\_\_ filed on \_\_\_\_\_ and as amended under PCT Article 19 on \_\_\_\_\_ (if any).

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**SUPPLEMENTAL DECLARATION (37 C.F.R. § 1.67(b))**

(complete the following where a supplemental declaration is being submitted)

I hereby declare that the subject matter of the  
 attached amendment  
 amendment filed on \_\_\_\_\_

was part of my/our invention and was invented before the filing date of the original application, above-identified, for such invention.

**ACKNOWLEDGEMENT OF REVIEW OF PAPERS AND DUTY OF CANDOR**

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information, which is material to patentability as defined in 37, Code of Federal Regulations, § 1.56,

(also check the following items, if desired)

and which is material to the examination of this application, namely, information where there is a substantial likelihood that a reasonable Examiner would consider it important in deciding whether to allow the application to issue as a patent, and  
 in compliance with this duty, there is attached an information disclosure statement, in accordance with 37 CFR 1.98.

**PRIORITY CLAIM (35 U.S.C. §§ 119(a)-(d))**

NOTE: The claim to priority need be in no special form and may be made by the attorney or agent if the foreign application is referred to in the oath or declaration as required by § 1.63. The claim for priority and the certified copy of the foreign application specified in 35 U.S.C. 119(b) must be filed in the case of an interference (§ 1.630), when necessary to overcome the date of a reference relied upon by the examiner, when specifically required by the examiner, and in all other situations, before the patent is granted. If the claim for priority or the certified copy of the foreign application is filed after the date the issue fee is paid, it must be accompanied by a petition requesting entry and by the fee set forth in § 1.17(i). If the certified copy is not in the English language, a translation need not be filed except in the case of interference; or when necessary to overcome the date of a reference relied upon by the examiner; or when specifically required by the examiner, in which event an English language translation must be filed together with a statement that the translation of the certified copy is accurate. 37 C.F.R. § 1.55(a).

I hereby claim foreign priority benefits under Title 35, United States Code, §§ 119(a)-(d) of any foreign application(s) for patent or inventor's certificate or of any PCT International application(s) designating at least one country other than the United States of America listed below and have also identified below any foreign application(s) for patent or inventor's certificate or any PCT International application(s) designating at least one country other than the United States of America filed by me on the same subject matter having a filing date before that of the application(s) of which priority is claimed.

(complete (d) or (e))

(d)  no such applications have been filed.  
(e)  such applications have been filed as follows.

NOTE: Where item (e) is entered above and the International Application which designated the U.S. itself claimed priority check item (e), enter the details below and make the priority claim.

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**PRIOR FOREIGN/PCT APPLICATION(S) FILED WITHIN 12 MONTHS  
(6 MONTHS FOR DESIGN) PRIOR TO THIS APPLICATION  
AND ANY PRIORITY CLAIMS UNDER 35 U.S.C. § 119(a)-(d)**

COUNTRY (OR INDICATE IF PCT)	APPLICATION NUMBER	DATE OF FILING (day, month, year)	PRIORITY CLAIMED UNDER 37 USC 119
			<input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/>
			<input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/>
			<input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/>
			<input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/>
			<input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/>

**CLAIM FOR BENEFIT OF PRIOR U.S. PROVISIONAL APPLICATION(S)  
(35 U.S.C. § 119(e))**

I hereby claim the benefit under Title 35, United States Code, § 119(e) of any United States provisional application(s) listed below:

PROVISIONAL APPLICATION NUMBER

FILING DATE

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**CLAIM FOR BENEFIT OF EARLIER US/PCT APPLICATION(S)  
UNDER 35 U.S.C. 120**

The claim for the benefit of any such applications are set forth in the attached ADDED PAGES TO COMBINED DECLARATION AND POWER OF ATTORNEY FOR DIVISIONAL, CONTINUATION OR CONTINUATION-IN-PART (C-I-P) APPLICATION.

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**ALL FOREIGN APPLICATION(S), IF ANY, FILED MORE THAN 12 MONTHS  
(6 MONTHS FOR DESIGN) PRIOR TO THIS U.S. APPLICATION**

**NOTE:** If the application filed more than 12 months from the filing date of this application is a PCT filing forming the basis for this application entering the United States as (1) the national stage, or (2) a continuation, divisional, or continuation-to-part, then also complete ADDED PAGES TO COMBINED DECLARATION AND POWER OF ATTORNEY FOR DIVISIONAL, CONTINUATION OR C.I.P. APPLICATION for benefit of the prior U.S. or PCT application(s) under 35 U.S.C. § 120.

**POWER OF ATTORNEY**

I hereby appoint the following practitioner(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith.

*(and name and registration number)*  
DOUGLAS W. Robinson, Reg. No. 32,751  
Hoffman, Wasson & Gitler, P. C.  
2361 Jefferson Davis Highway, Suite 522  
Arlington, Virginia 22202-3876

*(check the following item, if applicable)*

- I hereby appoint the practitioner(s) associated with the Customer Number provided below to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith.
- Attached, as part of this declaration and power of attorney, is the authorization of the above-named practitioner(s) to accept and follow instructions from my representative(s).

**SEND CORRESPONDENCE TO****DIRECT TELEPHONE CALLS TO:**  
*(Name and telephone number)*

**Address**  
DOUGLAS W. Robinson, Phone 703-415-0100  
Hoffman, Wasson & Gitler, P. C. Fax 703-418-2768  
2361 Jefferson Davis Highway  
Suite 522  
Arlington, Virginia 22202-3876

Customer Number \_\_\_\_\_

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**DECLARATION**

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

**SIGNATURE(S)**

**NOTE:** Carefully indicate the family (or last) name, as it should appear on the filing receipt and all other documents.

**NOTE:** Each inventor must be identified by full name, including the family name, and at least one given name without abbreviation together with any other given name or initial, and by his/her residence, post office address and country of citizenship. 37 CFR § 1.63(a)(3).

**NOTE:** Inventors may execute separate declarations/oaths provided each declaration/oath sets forth all the inventors. Section 1.63(a)(3) requires that a declaration/oath, inter alia, identify each inventor and prohibits the execution of separate declarations/oaths which each sets forth only the name of the executing inventor. 62 Fed. Reg. 53,131, 53,142, October 10, 1997.

**Full name of sole or first inventor**

JOHN

H.

DOWLING

(GIVEN NAME)

(MIDDLE INITIAL OR NAME)

FAMILY (OR LAST NAME)

Inventor's signature

*John Dowling*

U. S. A.

Date 3-30-99

Country of Citizenship

Residence 49 Windemere Way, Nashua, New Hampshire 03063Post Office Address 49 Windemere Way, Nashua, New Hampshire 03063*Nashua***Full name of second joint inventor, if any**

HOWARD

STERN

(GIVEN NAME)

(MIDDLE INITIAL OR NAME)

FAMILY (OR LAST NAME)

Inventor's signature

*Howard Stern*

U. S. A.

Date 3/31/99

Country of Citizenship

Residence 89 Derby Avenue, Greenlawn, New York, 11740Post Office Address 89 Derby Avenue, Greenlawn, New York 11740**Sixth**  
**Full name of third joint inventor, if any**

Luis

Alberto

Figariella

(GIVEN NAME)

(MIDDLE INITIAL OR NAME)

FAMILY (OR LAST NAME)

Inventor's signature

*Luis Alberto Figariella*

USA

Date 3-30-99

Country of Citizenship

Residence 27 Todd Rd, Nashua, NH 03060Post Office Address 27 Todd Rd, Nashua, NH 03060

MAR. 29. 1999 5:47PM WAI-LANDIS

NO. 955 P. 4/4

## DECLARATION

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

## SIGNATURE(S)

NOTE: Carefully indicate the family (or last) name, as it should appear on the filing receipt and all other documents.

NOTE: Each inventor must be identified by full name, including the family name, and at least one given name without abbreviation together with any other given name or initial, and by his/her residence, post office address and country of citizenship. 37 CFR § 1.63(a)(3).

NOTE: Inventors may execute separate declarations/oaths provided such declaration/oath sets forth all the inventors. Section 1.63(a)(3) requires that a declaration/oath, inter alia, identify each inventor and prohibits the execution of separate declarations/oaths which each sets forth only the name of the executing inventor. 62 Fed. Reg. 53,131, 53,142, October 10, 1987.

Full name of sole or first inventor

Harry  
(GIVEN NAME)

R.  
(MIDDLE INITIAL OR NAME)

MCKinley  
FAMILY (OR LAST NAME)

Inventor's signature

Date March 29, 1999 Country of Citizenship USA

Residence 58 Rattle Hill Road, Southampton, MA 01073

Post Office Address 58 Rattle Hill Road, Southampton, MA 01073

fourth

Full name of second joint inventor, if any

Philip  
(GIVEN NAME)

E.  
(MIDDLE INITIAL OR NAME)

MCKinley  
FAMILY (OR LAST NAME)

Inventor's signature

Date March 29, 1999 Country of Citizenship USA

Residence 85 West Street, Westford, MA 01886

Post Office Address 85 West Street, Westford, MA 01886

fifth

Full name of third joint inventor, if any

Taylor  
(GIVEN NAME)

J.  
(MIDDLE INITIAL OR NAME)

Lee  
FAMILY (OR LAST NAME)

Inventor's signature

Date March 29, 1999 Country of Citizenship USA

Residence 86 Harrington Ave., Concord, MA 01742

Post Office Address 86 Harrington Ave., Concord, MA 01742

Mar-27-99 02:09P M I TILLACK INT PROPLAW 201 15-0883

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(check proper box(es) for any of the following added page(s)  
that form a part of this declaration)

Signature for fourth and subsequent joint Inventors. Number of pages added \_\_\_\_\_

• • •

Signature by administrator(trix), executor(trix) or legal representative for deceased or incapacitated Inventor. Number of pages added \_\_\_\_\_

• • •

Signature for Inventor who refuses to sign or cannot be reached by person authorized under 37 CFR 1.47. Number of pages added \_\_\_\_\_

• • •

Added page for signature by one joint Inventor on behalf of deceased Inventor(s) where legal representative cannot be appointed in time. (37 CFR 1.47)

• • •

Added pages to combined declaration and power of attorney for divisional, continuation, or continuation-in-part (C-I-P) application.  
 Number of pages added \_\_\_\_\_

• • •

Authorization of practitioner(s) to accept and follow instructions from representative.

(If no further pages form a part of this Declaration,  
then end this Declaration with this page and check the following item)

This declaration ends with this page.

HO. MAN, WASSON & GITLER, P.C. 703/415-0100

Docket No. : A-6388  
Inventor/Applicant : John H. Dowling et al  
Serial/Patent/Reg. No. : 09/151,764  
Filing/Issue Date : 9-11-98  
Title/Mark : OPTICAL SYMBOLLOGIES IMAGER

RECEIVED  
SEP 28 AM 10:31  
BIOLOGY CENTER - 28

The U.S. Patent and Trademark Office acknowledges receipt of:

**PATENTS /w transmittal**

Specification (   pgs), Claims (   pgs) & Abstract  
 Drawings -    sheets  
    (   formal/   informal)  
 Declaration/Power of Attorney  
    (   signed/   unsigned)  
 Verified Statement[s]  
    (   Inventor/   Business/   Nonprofit)  
 Preliminary Amendment  
 Assignment w/Transmittal  
 Priority Document  
 IDS/PTO Form 1449/References  
 Issue Fee/Maintenance Fee - w/Transmittal  
 Amendment/Response/Communication/Extension

**TRADEMARKS /w transmittal**

In Use w/Specimen[s] (   pgs.)  
 Intent-to-Use (   pgs.)  
 Section 1126(d) (   pgs.)  
 Section 1126(e) w/Certified Copy (   pgs.)  
 Statement of Use w/Specimen[s] (   pgs.)  
 Sec. 8 & 15 Affidavit w/Specimen[s]  
 Amendment/Response/Communication/  
Extension

**MISCELLANEOUS**

RECORDED 9-28-98 A5

CHECK NO. \_\_\_\_\_ / DEPOSIT ACCOUNT TRANSACTION FOR \$ \_\_\_\_\_

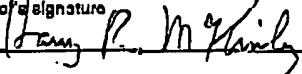
Group 2876

**POWER OF ATTORNEY:** As a named inventor, I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith (list name and registration number)

Douglas W. Robinson	Reg. No. 32,791
Martin P. Hoffman	Reg. No. 22,261
Mitchell B. Wasson	Reg. No. 27,408
Stewart L. Gitler	Reg. No. 31,256
Christopher J. McDonald	Reg. No. 41,533

Send Correspondence to: Hoffman, Wasson & Gitler, P.C.  
2361 Jefferson Davis Highway - Suite 522  
Arlington, VA 22202

Direct Telephone Calls to: (name and telephone number)  
Douglas W. Robinson - (703) 415-0100

Full name of sole or first inventor <b>Harry R. McKinley</b>	Date
Sole or first inventor's signature 	9/15/97
Residence 58 Rattle Hill Road, Southampton, Massachusetts 01073	
Citizenship United States	
Post Office Address Same as above	

Full name of second inventor, if any	
Second inventor's signature	Date
Residence	
Citizenship	
Post Office Address	

which can best be solved by a personal or telephone interview,  
please contact the undersigned attorney at the local telephone  
number listed below.

Respectfully submitted,

by Douglas W. Robinson  
Douglas W. Robinson, Reg. 32,751

April 1, 1999

HOFFMAN, WASSON & GITLER, PC  
2361 Jefferson Davis Highway  
Suite 522  
Arlington, VA 22202  
(703) 415-0100

Attorney's Docket: A-6388.PAD/lat

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:

John H. DOWLING et al

Serial No: 09/151,764

Filed : September 11, 1998

For : OPTICAL SYMBOLLOGIES IMAGER

SUBMISSION OF MISSING PARTS

Commissioner of Patents and Trademarks  
Washington, DC 20231

Sir:

In the response to the Notice to File Missing Parts dated October 2, 1998, submitted herewith is a Declaration and Power of Attorney.

Originally, this application was filed listing two inventors, Howard Stern and John Dowling. Upon detailed review of the claims of the application, it was determined that additional inventors should have been named, namely, Luis Alberto Figarella, Harry R. McKinley, Philip E. McKinley and Jason J. Lee. The error in the naming of inventorship occurred without any deceptive intent on the part of the actual inventors. Consequently, submitted herewith is a Petition to Correct Inventorship. No written consent of the assignee is provided as this application has not been assigned.

Furthermore, despite repeated efforts to obtain the signature of Harry McKinley, applicants have been unable to obtain said signature since this individual is out of the country. Applicants are continuing to try to locate the inventor to obtain his signature and will submit same upon its availability.

Applicants hereby petition for any extension of time which may be required and you are authorized to charge Deposit Account No. 08-2455 any fees necessary to maintain the pendency of the present application. A check for \$1,490.00 is enclosed covering the four month extension of time and the \$130.00 surcharge. If any issues remain which can best be solved by a personal or telephone interview, the Office is kindly requested to contact the undersigned attorney at the local telephone number listed below.

Respectfully submitted,

by Douglas W. Robinson  
Douglas W. Robinson, Reg. 32,751

April 1, 1999

HOFFMAN, WASSON & GITLER, PC  
2361 Jefferson Davis Highway  
Suite 522  
Arlington, VA 22202  
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